

THE HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

GREENWOOD ACRES, LLC,

Plaintiff,

v.

TRAVELERS CASUALTY INSURANCE
COMPANY OF AMERICA, a foreign
corporation,

Defendant.

No.: 3:20-cv-06063-MJP

TRAVELERS CASUALTY INSURANCE
COMPANY OF AMERICA'S ANSWER TO
COMPLAINT FOR DECLARATORY
RELIEF, BREACH OF CONTRACT, BAD
FAITH & VIOLATION OF THE
INSURANCE FAIR CONDUCT AND FOR
DAMAGES

JURY DEMAND

Defendant Travelers Casualty Insurance Company of America ("Travelers") submits this response to the Complaint for Declaratory Relief, Breach of Contract, Bad Faith & Violation of the Insurance Fair Conduct and for Damages (the "Complaint") filed by Plaintiff Greenwood Acres, LLC ("Greenwood") and states as follows:

I. PARTIES

1.1 Travelers admits that Greenwood is a Washington limited liability company with its principal place of business in Vancouver, Washington. Except as expressly admitted, Travelers lacks sufficient information to form a belief as to the truth of the allegations in Paragraph 1.1 of the Complaint and therefore denies them.

1.2 Travelers admits that it is a corporation organized under the laws of the state of Connecticut with its principal place of business in Hartford, Connecticut. Travelers further admits that it is an authorized foreign insurer in Washington state. Except as expressly admitted, Travelers denies the allegations in Paragraph 1.2 of the Complaint.

II. JURISDICTION AND VENUE

2.1 Travelers admits that Greenwood filed this lawsuit in Clark County Superior Court, the lawsuit was removed to this Court. Travelers further admits that this Court has subject matter jurisdiction and personal jurisdiction over the parties. Except as expressly admitted, Travelers denies the allegations in Paragraph 2.1 of the Complaint.

2.2 Travelers admits that Greenwood filed this lawsuit in Clark County Superior Court, the lawsuit was removed to this Court. Travelers further admits that this Court has subject matter jurisdiction and personal jurisdiction over the parties. Except as expressly admitted, Travelers denies the allegations in Paragraph 2.2 of the Complaint.

2.3 Travelers admits that Greenwood filed this lawsuit in Clark County Superior Court, the lawsuit was removed to this Court. Travelers further admits that this Court is the proper venue for this action. Except as expressly admitted, Travelers denies the allegations in Paragraph 2.3 of the Complaint.

III. GENERAL ALLEGATIONS

3.1 Travelers admits that it issued Policy Number 680-3F055512 to Greenwood (the "Policy"). Travelers further admits that the Policy and subsequent annual renewals, were in effect from November 15, 2014 through November 15, 2019 (collectively, the "Policies"). Travelers also admits that the terms of the Policies speak for themselves. Attached as **Exhibit A** is a true and correct certified copy of the Policy, which inception on November 15, 2014 and, following two annual renewals, expired on November 15, 2017. Except as expressly admitted, Travelers denies the allegations in Paragraph 3.1 of the Complaint.

3.2 Travelers admits that the terms of the Policies speak for themselves. Except as expressly admitted, Travelers denies the allegations in Paragraph 3.2 of the Complaint.

3.3 Travelers admits that Greenwood notified Travelers of alleged physical damage to property insured by the Policies (the "Claim"). Except as expressly admitted, Travelers denies the allegations in Paragraph 3.3 of the Complaint.

3.4 Denied.

3.5 Travelers admits that it set forth its coverage position in a findings letter, dated April 2, 2020 (the "Findings Letter"), the terms of which speak for themselves. Attached as **Exhibit B** is a true and correct copy of the Findings Letter. Except as expressly admitted, Travelers denies the allegations in Paragraph 3.5 of the Complaint.

IV. FIRST CAUSE OF ACTION – DECLARATORY RELIEF

4.1 Travelers incorporates by reference its responses to Paragraphs 1.1 through 3.5 of the Complaint as though fully set forth herein.

4.2 Travelers admits that it set forth its coverage position in the Findings Letter, the terms of which speak for themselves. Except as expressly admitted, Travelers denies the allegations in Paragraph 4.2 of the Complaint.

4.3 Paragraph 4.3 of the Complaint does not contain any factual allegations that require a response from Travelers. To the extent Paragraph 4.3 of the Complaint contains factual allegations that require a response from Travelers, Travelers denies them.

4.4 Paragraph 4.4 of the Complaint does not contain any factual allegations that require a response from Travelers. To the extent Paragraph 4.4 of the Complaint contains factual allegations that require a response from Travelers, Travelers denies them.

V. SECOND CAUSE OF ACTION – BREACH OF CONTRACT

5.1 Travelers incorporates by reference its responses to Paragraphs 1.1 through 4.4 of the Complaint as though fully set forth herein.

5.2 Denied.

5.3 Denied.

**VI. THIRD CAUSE OF ACTION – BREACH OF THE
COVENANT OF GOOD FAITH AND FAIR
DEALING/BAD FAITH**

6.1 Travelers incorporates by reference its responses to Paragraphs 1.1 through 5.3 of the Complaint as though fully set forth herein.

6.2 Paragraph 6.2 of the Complaint does not contain any factual allegations that require a response from Travelers. To the extent Paragraph 6.2 of the Complaint contains factual allegations that require a response from Travelers, Travelers denies them.

6.3 Denied.

6.4 Denied.

**VII. FOURTH CAUSE OF ACTION – VIOLATION OF
RCW 48.30.051 THE INSURANCE FAIR CONDUCT ACT**

7.1 Travelers incorporates by reference its responses to Paragraphs 1.1 through 6.4 of the Complaint as though fully set forth herein.

7.2 Denied.

7.3 Denied

7.4 Paragraph 7.4 of the Complaint does not contain any factual allegations that require a response from Travelers. To the extent Paragraph 7.4 of the Complaint contains factual allegations that require a response from Travelers, Travelers denies them.

VIII. TRAVELERS' AFFIRMATIVE DEFENSES

Travelers asserts the following affirmative defenses and, in doing so, does not assume any evidentiary burdens other than those imposed by law. No waiver or estoppel is intended, nor should be inferred, from the following:

8.1 To the extent Greenwood knew or should have reasonably known of the damage to its property, coverage for the loss is barred by the fortuity and known-loss

1 doctrines.

2 8.2 To the extent the alleged damage commenced before the Policies incepted or
3 after the Policies expired, the damage does not fall within the Policies' grant of coverage.

4 8.3 There is no evidence of an occurrence of physical damage during the Policies
5 effective period that exceeds the applicable deductible.

6 8.4 The Policies contain limitations and exclusions, which bar coverage for the
7 alleged physical damage, including but not limited to exclusions for faulty construction,
8 deficient design, and inadequate maintenance; wear and tear and deterioration; neglect;
9 fungus; interior water intrusion; and the repeated leakage of water and presence of moisture
10 over a period of 14 days or more.

11 8.5 Greenwood's claims are barred by the Policies' suit-limitation provisions.

12 8.6 Greenwood breached the Policies' conditions, resulting in actual and
13 substantial prejudice to Travelers, including but not limited to the Policies' prompt-notice
14 provision.

15 8.7 Greenwood fails to state claims upon which relief can be granted and, thus, the
16 Court should dismiss Greenwood's claims under Rule 12(b)(6).

17 8.8 Greenwood's claims fail based solely upon the pleadings and, thus, the Court
18 should dismiss Plaintiff's claims under Rule 12(c).

19 8.9 To the extent Greenwood recovered payment from its alleged loss from any
20 third party (including Greenwood's other insurers), Travelers is entitled to a setoff for any
21 amounts Greenwood recovered.

22 8.10 Greenwood failed to mitigate its damages, if any.

23 **IX. TRAVELERS'S JURY DEMAND**

24 9.1 Travelers demands trial by jury.

25 **X. TRAVELERS' RESERVATION OF RIGHTS**

26 10.1 Travelers reserves its rights to assert other affirmative defenses, counterclaims,

1 cross claims, and third-party claims, as appropriate.

2 **XI. TRAVELERS' REQUEST FOR RELIEF**

3 Having fully answered the Complaint and asserted affirmative defenses, Travelers
4 requests that the Court:

5 11.1 Dismiss Greenwood's claims against Travelers with prejudice; and

6 11.2 Grant Travelers such further relief as is just and equitable.

7 DATED: November 3, 2020

8 BULLIVANT HOUSER BAILEY PC

9
10 By 

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13 Attorneys for Defendant Travelers Casualty
14 Insurance Company of America

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CERTIFICATE OF SERVICE

I hereby certify that on November 3, 2020, I electronically filed the foregoing with the Clerk of the Court using the e-filing system which will send notification of such filing to the persons listed below:

Linda L. Foreman
FOREMAN STURM & THEDE, LLP
PO Box 13098
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Email: linda@foremansturm.com

Dated: November 3, 2020

Deb Metz

Deb Metz, Legal Assistant